

COUNTY OF KAUAI
Minutes of Meeting
Open Session

Board/Committee:	LIQUOR CONTROL COMMISSION	Meeting Date	September 21, 2017
Location	Mo'ikeha Building, Meeting Room #3	Start of Meeting: 4:00 p.m.	End of Meeting: 4:48 p.m.
Present	Chair Jean Iida; Vice Chair William Gibson; Members: Paul Endo, Maryanne Kusaka, Gerald Matsunaga, Gary Pacheco Also: Liquor Control Staff: Director Gerald Rapozo, Private Secretary Cherisse Zaima; Deputy County Attorney Matthew Bracken		
Excused	Shirley Akita		
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Iida called the meeting to order at 4:00 p.m. with 6 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 6 members were present.	
Approval of the Agenda	Director Rapozo noted an addition to the agenda to include Item. 4. Solicitor's Permit	Mr. Matsunaga moved to approve the agenda with additions. Mr. Pacheco seconded the motion. Motion carried 6:0.
Public Hearing	1. <u>NEW LIQUOR LICENSE:</u> a) <u>COCONUTS FISH CAFÉ:</u> Application No. 2017-123 was filed on May 11, 2017 by Fisherwood, LLC dba Coconuts Fish Café for a Restaurant Beer & Wine (no live music, no dancing) license located at 4-831 Kūhi'ō Highway, Kapaa, Kauai, Hawaii. The Commission accepted Application No. 2017-123 for publication and public hearing on May 18, 2017 and ordered to print notices of public hearing in The Garden Island newspaper on Wednesdays, March 24 & 31, 2017; and July 19 & 26, 2017, scheduling the public hearing on Thursday, September 21, 2017 at 4:00 p.m. or shortly thereafter	

	<p>in Meeting Room #3 of the Līhu'e Civic Center, Moikeha Building, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i.</p> <p>Ms. Carol Wood, Franchise owner, and Vice President, was present.</p> <p>Commissioner Gibson asked if this location had any relation to the old Coconuts, to which Ms. Wood replied no, explaining that there are two other locations in Maui as well as in California and Phoenix, AZ.</p> <p>The public hearing was closed.</p>	<p>Mr. Matsunaga moved to approve Application No. 2017-123. Mr. Endo seconded the motion. Motion carried 6:0.</p>
	<p>a) <u>PACO'S TACOS</u>: Application No. 2017-323 was filed on June 30, 2017 by Cloroshko LLC dba Paco's Tacos for a New Restaurant General (live entertainment and dancing) license at the Kiahuna Golf Club located at 2545 Kiahuna Plantation Drive, Kōloa, Kauai, Hawaii. The Commission accepted Application No. 2017-323 for publication and public hearing on July 20, 2017 and ordered to print notices of public hearing in The Garden Island newspaper on Wednesdays, July 26 & August 2, 2017, scheduling the public hearing on Thursday, September 21, 2017 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Moikeha Building, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i.</p> <p>Ms. Elizabeth Diaz, owner, was present.</p> <p>The Commission received testimony in opposition from Mr. Merrill Yavinsky, who stated he lives the closest to the establishment as anyone in the Kiahuna Golf Village. He referenced his letter submitted to the Commission on September 5, 2017 (on file). Mr. Yavinsky expressed concern with the notice of public hearing with regard to the live entertainment and dancing, which he strenuously objects to. The business establishment is located amongst 3 different communities: Kiahuna Golf</p>	

	<p>Village, Poipu Beach Estates, and the upcoming Pili mai condominiums. His concern is that the new licensees have not discussed anything regarding their business plan with the homeowners. Mr. Yavinsky does not want the quality of life there to be negatively impacted by loud music and dancing going on into the night. Mr. Yavinsky noted that he has lived in his home for 15 years, and had a good relationship with the previous owner, Joe, and though he used to have occasional events there, it was no more than 10 – 15 a year; not consistent, regular music every night. He also noted that Joe would shut down by 10:00 p.m., and people would disperse shortly after that. Mr. Yavinsky is unclear of the intent of the new owners, but he strongly objects to regular live entertainment and dancing because it will impact a number of homeowners.</p> <p>Commissioner Kusaka asked Mr. Yavinsky what he would be supportive of in the way of entertainment to which he replied that he is not trying to deter someone from making the most of their business, but he feels intermittent events, and open communication between the business owners and the homeowners is appropriate. He commented that the golf course has since taken on different ownership, and the current owner does not seem to have the same desire to have a good relationship with the homeowners that border his property. Mr. Yavinsky reiterated that he does not have an objection to the serving of liquor, but he is concerned with the extent to which it is leveraged with nightly loud music and dancing.</p> <p>Commissioner Kusaka asked that if the Commission were to put conditions on the license to restrict the time that music could be played, would Mr. Yavinsky be okay with that to which Mr. Yavinsky stated he did not have a problem with that.</p> <p>Commissioner Gibson asked whether he has taken the opportunity to speak with Ms. Diaz about her operation to which Mr. Yavinsky replied no. In</p>	
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	<p>response to Commissioner Gibson and Commissioner Kusaka, Ms. Diaz explained what her plans are for the establishment.</p> <p>Ms. Diaz stated they are not planning to have live music every day, and when they do have music on the weekends it will not go past 10:00 p.m. At this point she is unsure what type of special events they may have, but she is planning to have live entertainment every weekend.</p> <p>Testifier Merrill Yavinsky began to state his objections, and his preferences.</p> <p>Commissioner Matsunaga addressed testifier Yavinsky, and asked if he had any suggestions in mind that he would like the Commission to consider to which Mr. Yavinsky replied he would be open to entertainment for special events with a deadline of 10:00 p.m. Commissioner Matsunaga asked if it would be helpful for Mr. Yavinsky to meet with the applicant and come up with an agreement, to which Mr. Yavinsky replied the applicant has stated that she wants entertainment every weekend.</p> <p>Ms. Diaz stated she feels it will be helpful to meet, noting she is family oriented.</p> <p>Commissioner Matsunaga stated the common complaint seems to be with the noise from the live entertainment and suggested they come to an agreement about it. Mr. Yavinsky stated his concern is that whatever decision the Commission makes will have long term effects. In response to Commissioner Matsunaga, Mr. Yavinsky stated he could meet with the applicant; however he is not very optimistic about the outcome. Commissioner Matsunaga asked Ms. Diaz if she was willing to meet with the homeowners to which Ms. Diaz replied yes.</p>	
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	<p>Director Rapozo reminded the Commission that the public testimony portion of the meeting is not over, and there are other testifiers wishing to speak.</p> <p>The Commission received testimony from Mr. Terry Kamen in opposition. Mr. Kamen stated he lives in the next closest house to the establishment at Kiahuna Golf Village, and has been dealing with noise from there for a couple of years. He noted that he is totally in favor of them having a liquor license, and food; however he is 100% against a Cabaret license with loud music after 7:00 p.m. The wind blows toward his house, and that of his neighbors, many of whom go to bed early and are unable to do so because of the loud music. Mr. Kamen stated he feels it would also bring many people wandering around the golf course at night drunk because of the dancing, which goes on late, and kids will hang out in the parking lots, which is also an issue for them. Mr. Kamen stated the previous establishment would have music until 7:00 p.m., usually Hawaiian music, and it was fine when it ended at a reasonable hour. He is of the opinion that he does not want any noise, parties, or special events; they just want their nice, quiet golfing neighborhood.</p> <p>Commissioner Kusaka pointed out that the area was slated for commercial business as it was a golf course, which would normally have a restaurant and bar, prior to Mr. Kamen building a home there, and feels they could come to some sort of fair agreement. Mr. Kamen reiterated that he does not have a problem with the liquor license, just with the loud music that will waft into his home. Mr. Kamen added that it's a different use there now, and the music is not appropriate anymore.</p> <p>Commissioner Pacheco asked whether it would be acceptable if the establishment has live music that is NOT amplified to which Mr. Kamen stated if it is un-amplified, the residents will not hear it. It is only the amplified music and cabaret dancing that is a problem, but Mr. Kamen</p>	
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	<p>stated he does not see the point of having a live dance band without amplification.</p> <p>Mr. Pacheco asked Ms. Diaz if she would object to having music that is not amplified to which Ms. Diaz replied no. Mr. Kamen responded by asking whether the license is a Cabaret license to which the Commission replied no. Mr. Kamen asked whether the idea is that there will be no amplified music after 7:00 p.m., and if so, he feels that would work.</p> <p>Ms. Diaz stated they are not planning to serve alcohol after 10:00 p.m., and the music situation can be discussed with the neighbors; they are not there to be disruptive.</p> <p>Commissioner Pacheco moved to include the conditions that there will be no amplified music after 7:00 p.m. and that liquor service will cease at 10:00 p.m.</p> <p>Commissioner Pacheco amended his motion to add the condition that Acoustic music be allowed until 10:00 p.m.</p> <p>Commission Kusaka stated she would like to add that there be no further drinking or loud talking in the parking lot after the facility is closed; including employees. Director Rapozo explained that the parking lot is not part of the licenses premises, therefore, the Commission cannot set any conditions for that area. However, it is still the responsibility of the licensee to handle any noise issues from employees or customers, and the licensee can receive a violation for such issues.</p> <p>Commissioner Kusaka stated that the neighborhood would prefer to be assured that another party would not just continue in the parking lot to which Director Rapozo stated should there be any noise complaints, the</p>	<p>Mr. Pacheco moved to approve Application No. 2017-323 with the following conditions: Acoustic music will be allowed until 10:00 p.m.</p>
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	police could be called as well as the Liquor Control Investigators on duty. There are enforcement options available.	No amplified music after 7:00 p.m. All alcohol service will cease at 10:00 p.m. Mr. Matsunaga seconded the motion. Motion carried 6:0.
Violation Hearing	<p>a) <u>KAUAI BEER COMPANY</u>: Violation of Rule 7.9(d) Manager Registration.</p> <p>Director Rapozo noted Pursuant to Rule 3.11 the licensee has waived their right to a hearing, and paid a fine of \$150.</p>	
	<p>b) <u>WHALER’S GENERAL STORE #1158</u>: Violation of Rule 10.3(b) Manager Registration.</p> <p>Director Rapozo noted Pursuant to Rule 3.11 the licensee has waived their right to a hearing, and paid a fine of \$150.</p>	
	<p>c) <u>ST. REGIS PRINCEVILLE RESORT</u>: Violation of Rule 4.7(a)(1) Gross Liquor Sales Report, Percentage Fee, and Records.</p> <p>Mr. Eric Johnson, Assistant Director of Finance, was present to represented the licensee; no counsel.</p> <p>Mr. Johnson explained that the Director of Finance at the time was out due to illness and eventually left, and during the transition of Mr. Johnson taking over his duties along with managing his regular duties, the sales report fell through the cracks. He apologized for the oversight.</p>	Mr. Matsunaga moved to impose a fine of \$200. Mr. Pacheco seconded the motion. Motion carried 6:0.
Approval of the Minutes	<u>APPROVAL OF THE MINUTES OF SEPTEMBER 7, 2017</u>	Mr. Pacheco moved to approve minutes of September 7, 2017. Ms. Kusaka seconded the motion. Motion carried 6:0.

1.	<p><u>DIRECTOR'S REPORT:</u></p> <p>a) <u>INVESTIGATORS' REPORTS</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ul style="list-style-type: none">(1) From Remy Cointreau USA, Inc.(2) From Avid Marketing Group(3) From MHW, Ltd.(4) Disturbance Reports from Hukilau Lanai, Nāwiliwili Tavern, and Restaurant Kintaro <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <ul style="list-style-type: none">(1) To Remy Cointreau USA, Inc.(2) To Avid Marketing Group(3) To MHW, Ltd.(4) To All Wholesale Licensees, Re: Temporary Liquor License Hilton Garden Inn Kauai Wailua Bay; Transfer Liquor License Hilton Garden Inn Kauai Wailua Bay <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u></p> <ul style="list-style-type: none">(1) WRANGLER'S STEAKHOUSE(2) KAUAI LIFEGUARD ASSOCIATION(3) WAIPA FOUNDATION(4) WEST KAUAI BUSINESS AND PROFESSIONAL ASSOCIATION(5) KAUAI HABITAT FOR HUMANITY(6) KAUAI CHAMBER OF COMMERCE(7) WALDRON LILLY INTERNATIONAL INC.(8) NCL (BAHAMAS) LTD.	
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	f) <u>INFORMATIONAL MATTERS:</u>	Mr. Endo moved to accept Items 1(a) through 1(f). Mr. Gibson seconded the motion. Motion carried 6:0.
2.	<u>90-DAY TRIAL PERIOD:</u> <u>AMA:</u> Pursuant to HRS Section 281-47, applicant requests a one-time 90-day trial period to allow live entertainment and dancing.	Mr. Pacheco moved to approve the 90-day trial period. Ms. Kusaka seconded the motion. Motion carried 6:0.
Announcements	Next Scheduled Meeting: Thursday, October 5, 2017 – 4:00 pm, Mo'ikeha Building, Meeting Room #3.	
Adjournment		Chair Iida adjourned the meeting at 4:48 p.m.

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Jean Iida, Chair